

incurred or assumed. For purposes of applying this section, a termination of the partnership under section 708(b)(1)(B) will not cause partnership liabilities incurred or assumed prior to the termination to be treated as incurred or assumed on the date of the termination.

[T.D. 8380, 56 FR 66356, Dec. 23, 1991, as amended by T.D. 8906, 65 FR 64890, Oct. 31, 2000; T.D. 8925, 66 FR 723, Jan. 4, 2001]

§ 1.753-1 Partner receiving income in respect of decedent.

(a) *Income in respect of a decedent under section 736(a).* All payments coming within the provisions of section 736(a) made by a partnership to the estate or other successor in interest of a deceased partner are considered income in respect of the decedent under section 691. The estate or other successor in interest of a deceased partner shall be considered to have received income in respect of a decedent to the extent that amounts are paid by a third person in exchange for rights to future payments from the partnership under section 736(a). When a partner who is receiving payments under section 736(a) dies, section 753 applies to any remaining payments under section 736(a) made to his estate or other successor in interest.

(b) *Other income in respect of a decedent.* When a partner dies, the entire portion of the distributive share which is attributable to the period ending with the date of his death and which is taxable to his estate or other successor constitutes income in respect of a decedent under section 691. This rule applies even though that part of the distributive share for the period before death which the decedent withdrew is not included in the value of the decedent's partnership interest for estate tax purposes. See paragraph (c) (3) of § 1.706-1.

(c) *Example.* The provisions of this section may be illustrated by the following example:

Example. A and the decedent B were equal partners in a business having assets (other than money) worth \$40,000 with an adjusted basis of \$10,000. Certain partnership business was well advanced towards completion before B's death and, after B's death but before the end of the partnership year, payment of

\$10,000 was made to the partnership for such work. The partnership agreement provided that, upon the death of one of the partners, all partnership property, including unfinished work, would pass to the surviving partner, and that the surviving partner would pay the estate of the decedent the undrawn balance of his share of partnership earnings to the date of death, plus \$10,000 in each of the three years after death. B's share of earnings to the date of his death was \$4,000, of which he had withdrawn \$3,000. B's distributive share of partnership income of \$4,000 to the date of his death is income in respect of a decedent (although only the \$1,000 undrawn at B's death will be reflected in the value of B's partnership interest on B's estate tax return). Assume that the value of B's interest in partnership property at the date of his death was \$22,000, composed of the following items: B's one-half share of the assets of \$40,000, plus \$2,000, B's interest in partnership cash. It should be noted that B's \$1,000 undrawn share of earnings to the date of his death is not a separate item but will be paid from partnership assets. Under the partnership agreement, A is to pay B's estate a total of \$31,000. The difference of \$9,000 between the amount to be paid by A (\$31,000) and the value of B's interest in partnership property (\$22,000) comes within section 736(a) and, thus, also constitutes income in respect of a decedent. (However, the \$17,000 difference between the \$5,000 basis for B's share of the partnership property and its \$22,000 value at the date of his death does not constitute income in respect of a decedent.) If, before the close of the partnership taxable year, A pays B's estate \$11,000, of which they agree to allocate \$3,000 as the payment under section 736(a), B's estate will include \$7,000 in its gross income (B's \$4,000 distributive share plus \$3,000 payment under section 736(a)). In computing the deduction under section 691(c), this \$7,000 will be considered as the value for estate tax purposes of such income in respect of a decedent, even though only \$4,000 (\$1,000 of distributive share not withdrawn, plus \$3,000, payment under section 736(a)) of this amount can be identified on the estate tax return as part of the partnership interest.

(d) *Effective date.* The provisions of section 753 apply only in the case of payments made with respect to decedents whose death occurred after December 31, 1954. See section 771(b)(4) and paragraph (b)(4) of § 1.771-1.

§ 1.754-1 Time and manner of making election to adjust basis of partnership property.

(a) *In general.* A partnership may adjust the basis of partnership property under sections 734(b) and 743(b) if it